Sierra Club Attempts to Bar Mineral King Resort Permit

Judge Takes Case Under Submission After U.S. Attorney Argues Conservation Group Has No Ground for Injunction

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SAN FRANCISCO—The Sierra Club stated in Federal Court here Tuesday that Secretary of Interior Walter J. Hickel plans to issue a permit within a few days for construction of an access road to the proposed Mineral King ski resort.

Arguing on behalf of the club's request for a preliminary injunction to prevent Hickel and other federal officials from allowing Walt Disney Productions to proceed with the project, Leland R. Selna, a Sierra Club attorney, said development should be stopped now.

He contended that once Hickel issues the permit for the access road through Sequoia National Park to Mineral King Valley, construction on the resort project will be difficult to block because of the planning investment in time and money.

Defending Hickel, Secretary of Agriculture Clifford M. Hardin and other federal officials against the conservation group's suit, Asst. U.S. Atty. Paul E. Locke contended there is no urgency which justifies a preliminary injunction.

He presented an affidavit in which Dist. Engineer Richard E. Deffebach of the California Division of Highways said that the state will not be ready to ask for bids on the access road until at least May 1, 1970.

Locke assured U.S. Judge William T. Sweigert that there will be no construction or earth moving in connection with the Mineral King development until next year. He said he was agreeable to going ahead with the trial on the merits of the Sierra Club's petition for a permanent injunction to prevent the ski resort from being built.

The judge took the case under submission. He is not expected to rule on the preliminary injunction request until at least next week. He gave Selna until Monday to submit a written response to Locke's brief attacking the entire Sierra Club suit.

Locke's position is that the Sierra Club has no legal standing to bring the suit because neither it nor its individual members will be wronged by the project and that the suit is invalid because the U.S. government has not consented to being sued.

He also disputed three main claims on which the Sierra Club bases its suit:

1—That construction of the access road through Sequoia National Park is illegal because it would not serve the park itself, as required by Department of Interior regulations.

2—That the 300-acre to 1,000-acre Mineral King project, to be located on U.S. Forest Service land at the south end of and just outside the park, exceeds an 80-acre limitation Congress has set for resorts built on such land.

Sierra Club's Contention

3—That the estimated attendance of a million persons a year at the resort would be detrimental to the national game refuge established in Mineral King valley in 1926.

The Sierra Club contends that the U.S. Department of Agriculture, which has jurisdiction over Forest Service lands, plans to circumvent the 80-acre limitation by granting permits—supposedly revocable annually — for use of additional acreage. Selna charged that the permits could not actually be revoked because of the $60 million state and private investment in the development which would be damaged by such revocation.

Locke insisted there is nothing in the act establishing the national game refuge which prohibits use of the area for recreation and added it cannot be taken for granted that persons using the resort will be detrimental to game in the area.

It was revealed at Tuesday's hearing that former Secretary of Interior Stewart Udall issued an executive order in January, requiring public hearings on all proposed roads through national parks.

The order would have been applicable to the Mineral King project, which has not been the subject of a full-scale public hearing, except for the fact that Udall's successor, Hickel, rescinded the order in April.

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